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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/783,366	02/14/2001	Thomas E. Brockley	1429.002	2305

7590

03/07/2002

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EXAMINER

DAVIS, CASSANDRA HOPE

ART UNIT	PAPER NUMBER
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3628

DATE MAILED: 03/07/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/783,366	Applicant(s) BROCKLEY ET AL.	
	Examiner Cassandra Davis	Art Unit 3628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 December 2001.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,5-13,17,21-28 and 325 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,5-13, 17, 21-28, 36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 5) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 5-11 and 17, 21-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Feher, U. S. Patent 861,822. Feher teaches an embossed picture comprising a frame 1 having a rebate or rear recess *a*, a transparent cover sheet 7, a foundation plate 2 having a facing of paper 4 mounted thereon, and an embossed or three-dimensional member 6. The plate 2, embossed or three-dimensional member 6, and sheet 7 are retained within the recess of the frame 1 by a suitable backing plate 9. The plate is held within the frame by tacks 10. The peripheral edges of the sheet 7 lie flush with the front surface of the paper 4 and are held in engagement therewith by molding 8 of frame 1.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 11-13 and 25-28, 32, and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Feher in view of Rand, U. S. Patent 405,678. Rand teaches a

three-dimension picture comprising a frame **A** having a rebate or rear recess, a transparent cover **C**², a backing plate **B** having a picture (lines 45-50) thereon, and a three-dimensional object (bird). It would have been obvious to one having ordinary skill in the art to provide a picture on the backing plate that corresponds with the three-dimensional object to enhance the appearance of the display.

5. With respect to claim 13, since the applicant does not disclose that constructing the picture in the form of a photograph solves any stated problem or is for any particular purpose, it appears to providing any suitable picture in the background as taught by Rand would perform equally well.

6. With respect to claims 14-16, 29-31, and 33-35, since the applicant does not disclose that displaying the object in the form of a motor sports, fishing, or sporting events solves any stated problem or is for any particular purpose, it appears displaying any suitable memorabilia would perform equally well.

Response to Arguments

7. Applicant's arguments filed December 21, 2001 have been fully considered but they are not persuasive.

8. With respect to claims 1 and 17, the applicant argues that Feher fails to disclose a sports commemorator having a cover with a first transparent portion configured to conform to a picture and a second transparent portion which configured to conform to a sports related object. The examiner contends that clearly teaches a cover member 7 made of a transparent material. Feher teaches that the edges of the cover member lie

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flush with the paper 4 and is held by the molding 8 of the frame. The examiner considers the edge of the cover member 7 to correspond to the first transparent portion configured to conform to the picture. In addition, the examiner considers the central bulge or curved portion to correspond to the second transparent portion. This portion is adapted to receive the embossed sheet 6. In addition, the applicant does not positively claim the picture or the object.

9. The rejection is maintained.

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cassandra Davis whose telephone number is 703-308-2223. The examiner can normally be reached on Monday-Friday 8:00-4:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Lavinder can be reached on 703-308-2168. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-2168.


Cassandra Davis
Primary Examiner
Art Unit 3628

CD
March 6, 2002